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UNCLAS SECTION 01 OF 10 TAIPEI 000017

SIPDIS

DEPT PASS TO AIT/W AND USTR

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E.O. 12958: N/A

TAGS: [ETRD](#) [ECON](#) [KTDB](#) [TW](#) [KPRP](#)

SUBJECT: TAIWAN: 2005 NATIONAL TRADE ESTIMATE REPORT

TRADE SUMMARY

1. The U.S. trade deficit with Taiwan was \$14.2 billion in 2003, up \$385 million from 2002. U.S. goods exports during the same period were \$ 17.4 billion, down 5.1 percent from the previous year. Corresponding U.S. imports from Taiwan were \$31.6 billion, down 1.7 percent. Taiwan is the 9th largest export market for U.S. goods and 6th largest market for agricultural products.

2. U.S. exports of private commercial services (i.e., excluding military and government) to Taiwan were \$4.8 billion in 2002 (latest data available), and U.S. imports were \$5 billion. The stock of U.S. foreign direct investment (FDI) in Taiwan in 2003 was \$ 11 billion, up from \$ 10.1 billion in 2002. U.S. FDI in Taiwan is concentrated largely in the finance, manufacturing, and wholesale sectors.

OVERVIEW

3. Taiwan experienced an economic boom in 2004, prompting its estimated real GDP growth to post a seven-year high of nearly six percent. However, excess inventory, higher oil prices and a steady increase in interest rates dampened Taiwan's major export markets and contributed to a slowdown in Taiwan's economic expansion in the second half of 2004. Taiwan's real GDP growth is expected to decline from 7.3 percent in the first half of 2004 to 4.7 percent in the second half and further down to 4.5 percent in 2005. Export growth declined steadily from 29 percent in the second quarter to 21 percent in the third quarter and 17.5 percent in October 2004. Meanwhile, industrial growth dropped from 15 percent in the second quarter to 8.6 percent in the third quarter and merely three percent in October. A chronic trade surplus has enabled Taiwan to hold the third largest foreign exchange reserves of US\$235 billion and made Taiwan a net capital supplier to the world. Taiwan is one of the major sources of foreign direct investment in China. Financial reforms adopted in late 2001 prompted local banks to write off NT\$1.3 trillion of bad debt, cutting the average ratio of non-performing loans (overdue for over three months) from nearly 12 percent in early 2002 to 4.5 percent in October 2004.

IMPORT POLICIES

TARIFFS

4. Taiwan promulgated a comprehensive tariff revision schedule on January 1, 2004 in compliance with Taiwan's Free Trade Agreement with Panama, and Taiwan's accession commitments to the WTO. Tariffs on pharmaceuticals, pulp/paper, iron/steel, construction equipment, agricultural equipment, medical equipment, furniture and toys were eliminated starting on January 1, 2004. As a result, the average nominal tariff rate on imported goods in 2004 was approximately 5.7 percent and is expected to fall to 5.5 percent by 2007. However, U.S. industry continues to request that Taiwan lower tariffs on imports of large motorcycles, wine, canned soup, biscuits, cookies, snack foods, mixed vegetable juices, potato and potato products, table grapes, apples, citrus products and polylactic acid, which is used to make recyclable plastics.

5. Upon Taiwan's accession to the WTO in January 2002, Taiwan implemented a tariff-rate quota (TRQ) system on small passenger cars, three categories of fish and fish products, and a number of agricultural products. On January 1, 2004, in accordance with its WTO accession commitments, Taiwan made additional tariff cuts and increased TRQ amounts on these products. Some items of interest to U.S. exporters, including chicken meat, pork belly, and poultry and pork variety meats, will be fully liberalized in 2005. In May 2004, Taiwan increased TRQ on sugar from 205,000 tons to

255,000 tons to meet Taiwan's domestic market shortage.

16. Taiwan has notified the WTO that it maintains Special Safeguards (SSGs) for a number of agricultural products covered by TRQs. SSGs, permitted under Article 5 of the Agreement on Agriculture, allow Taiwan to impose additional duties when import quantities exceed SSG trigger volumes or import prices fall below SSG trigger prices. As Taiwan has not imported many of these products previously, SSG trigger volumes are relatively low. SSGs will also come into play once imports of certain commodities are fully liberalized in 2005 and will likely have the greatest effect on U.S. poultry exports. The United States has raised concerns over Taiwan's use of SSGs in both Taipei and Geneva.

Licensing and Other Restrictions

17. In order to comply with its WTO commitments, Taiwan eliminated import controls on over 99 percent of 10,912 official import product categories. Currently, 24 product categories require import permits from the Board of Foreign Trade. Imports of 65 categories are "restricted", including ammunition and some agricultural products. These items can only be imported under special circumstances, and their importation is effectively banned.

18. Agricultural and Fish Products: Prior to WTO accession, Taiwan banned or restricted imports of 42 agricultural and fish items. In January 2002, Taiwan liberalized imports of 18 of these agricultural and fish categories and implemented TRQs on the remaining 24 items. TRQs on a number of products of interest to the United States (chicken meat, pork belly and offal, and poultry offal) will be eliminated on January 1, 2005 when trade is fully liberalized.

19. Rice: Before Taiwan's WTO accession, imports of rice were banned. During 2002, rice imports were subject to a minimum market access quota that covered both public- and private sector imports. In 2003, Taiwan changed its rice import regime from a minimum market access quota to a tariff-rate quota without consultation with its trade partners. As a result, in January 2003 the United States, as well as Australia and Thailand, formally objected to Taiwan's proposed rice import system at the WTO. Since then, the United States has also raised concerns regarding Taiwan implementation of its rice import system, including cancellation of mark-up price reductions for several private sector tenders, and the use of a "ceiling price" for public sector tenders. Despite these difficulties, U.S. suppliers were able to gain a majority of the rice import market in 2002 and 2003. In 2004, Taiwan's implementation of its import commitments improved significantly, allowing the United States to secure the largest import market share. At the same time, both sides made substantial progress in resolving outstanding bilateral differences in 2004, paving the way for final resolution of the issue.

110. Tobacco and Alcohol Products: As a condition of Taiwan's WTO accession, a new tobacco and alcohol management and tax system went into effect on January 1, 2002. In place of the previous tax on imports administered by the former monopoly authority, the Taiwan Tobacco and Wine Monopoly Bureau (TTWMB), Taiwan agreed to impose an excise tax and to eliminate tariffs on imports of most spirits. In 2003, some legislators proposed lower excise taxes on salt-added cooking wine, contrary to Taiwan's WTO commitments, but these legislators failed.

111. Taiwan also liberalized private alcohol production upon its accession to the WTO and private cigarette manufacturing in 2004. TTWMB became a state-owned corporation, Taiwan Tobacco and Liquor Corporation (TTLC), in July 2002. However, primarily due to resistance by organized labor, the privatization of the TTLC has been postponed until 2005.

112. Wood Products: Taiwan has revised building codes in line with international practices. However, Taiwan has not yet completed a companion fire code. This delay means that while a wood frame structure may be built, approval by fire inspection authorities is contingent on review and comment by a special committee on details, such as design and usage. U.S. wood products companies have raised concerns that this practice is restrictive and does not encourage wood use in construction. The continued use of a special committee unnecessarily delays construction of wood structures and raises the cost of using wood materials significantly beyond that of other materials such as concrete and steel.

113. Automobiles and Motorcycles: Local content requirements in the automobile and motorcycle industries were lifted as part of Taiwan's WTO accession. The importation of motorcycles with engines larger than 150 cc was liberalized in July 2002 as part of Taiwan's WTO commitments. In mid-2003 Taiwan agreed to set emissions standards for motorcycles over 700 cc in line with international

standards, a step that the U.S. motorcycle industry supported. The U.S. Government remains concerned with Taiwan's tariffs and other taxes on large motorcycles as well as Taiwan's restrictions on motorcycle access to highways.

STANDARDS, TESTING, LABELING AND CERTIFICATION

14. Industrial and Home Appliance Products: Industrial and home appliance products (such as air-conditioning and refrigeration equipment) are subject to safety and electromagnetic compatibility (EMC) testing requirements before clearing customs. The manufacturers or importers can choose tests on each shipment "batch-by-batch inspection" (BBI) with Type Approval or apply "registration of product certification (RPC)". All safety testing for end products must be done in Taiwan by Taiwan accredited laboratories. Taiwan accepts EMC testing by NIST accredited laboratories if they are in the U.S. only for IT equipment based on the 1999 EMC Mutual Recognition Agreement (MRA) signed between the American Institute in Taiwan (AIT) and the Taipei Economic and Cultural Representatives Office (TECRO) in the United States. For those products that adhere to the ISO 9000 quality management system, an alternative factory inspection module was introduced. The manufacturers or importers may choose the module most appropriate to them when applying for registration under the RPC scheme.

15. Sanitary and Phytosanitary Measures: As a member of the WTO, Taiwan must abide by the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (including notification of such measures). In 1998, Taiwan agreed to accept meat and poultry imports from plants approved by the USDA Food Safety Inspection Service. In 1999 and 2000, Taiwan agreed to accept Codex Alimentarius or U.S. pesticide residue standards for some chemicals used on imported fruits and vegetables. However, the United States continues to be concerned that some Taiwan plant and animal quarantine measures are not always based on sound science and are not the least trade-restrictive measures available.

16. Alcohol Beverage Products: On December 31, 2001, immediately before its WTO accession, Taiwan implemented new regulations requiring major ingredient labeling for alcohol beverages. Although these regulations relate to international trade, the United States was not informed by Taiwan in advance of their implementation. Bilateral meetings were conducted in 2002 to discuss this requirement and as a result, enforcement of the ingredient-labeling requirement was delayed until July 2003. In December 2003, Taiwan's legislature passed the Tobacco and Alcohol Administrative Law (TAAL), which enabled the Ministry of Finance (MOF) to eliminate ingredient-labeling requirements for alcohol beverage products. Beginning July 1, 2004, alcoholic beverage product labels do not need to include a list of ingredients.

17. Agricultural Biotechnology Products: Taiwan authorities generally have taken a cautious, but fairly rational approach to trade in agricultural biotechnology products. Risk assessment documentation on agricultural biotechnology corn and soybeans were required to be submitted to DOH before April 30, 2002, and mandatory labeling on certain corn and soybean products commenced in 2003. In October 2003, DOH announced its intention to require registration of agricultural biotechnology products other than corn and soybeans in 2004, but offered an opportunity for life science companies to obtain interim approval for those products currently commercialized. No disruptions to trade have resulted from Taiwan's biotechnology regulations. However, with a number of products entering the regulatory approval pipeline and a lack of investment in a strong regulatory infrastructure, delays in approvals have become more frequent.

18. Labeling of Genetically Modified (GM) food: Taiwan's bioengineered food safety approval and labeling regulation took effect on January 1, 2003. Mandatory labeling of bioengineered food was phased in over a two-year period, beginning with certain soybean and corn products. By 2005, the label will be required for all processed corn and soybean products. Taiwan uses a 5 percent tolerance for bioengineered food labeling. All food products containing 5 percent or more bioengineered soybean or corn ingredients by weight must be labeled as "Genetically Modified (GM)" or "Containing Genetically Modified".

19. Medical Devices: Registration and approval procedures for medical device imports are complex and time-consuming, and have been the subject of long-standing complaints by U.S. firms. The registration process requires redundant testing, and foreign manufacturers must re-register new products even though they are based on previously approved devices. In addition, it is unclear when local clinical trials are required for the review process or whether industry is allowed to provide additional input in response

to questions posed by DOH officials reviewing the clinical trial submissions. The adoption of the U.S. Food and Drug Administration's medical device classification system in June 2000 was welcomed by industry. However, Taiwan's implementation of this system in 2004 was faulted by industry for requiring re-registration of previously approved products. Taiwan has identified both the medical device and pharmaceutical sectors as priorities for local development, resulting in Taiwan's agencies often favoring the interests of local companies over foreign firms.

20. Pharmaceuticals: Taiwan's lengthy pharmaceutical registration process slows market entry for new drugs that have already been approved in other economies and also imposes unnecessary costs on drugs that have been approved in Taiwan. In May 2001, the DOH announced a requirement for firms to submit voluminous amounts of proprietary manufacturing data as part of the registration and approval process for both new drugs and those already on the market. The amount of such "validation" data requested by Taiwan far exceeded international norms. In response to concerns raised by the United States and its industry, the DOH had postponed implementation of this requirement. In December 2002, the United States and Taiwan exchanged letters in which Taiwan affirmed its commitment to adhere to international practices as applied in advanced economies, and agreed that firms can demonstrate validation status by providing documentary evidence, including abridged registration applications. In August 2003, DOH and the U.S. industry reached agreement on validation data resolutions. However, DOH has announced plans to assign risk based "priority numbers" that will be used to determine which manufacturers are inspected by DOH. US industry is concerned that these risk priority numbers are based on non-transparent criteria and inspections will unfairly target manufacturers that provide abridged data. Discussions between the United States and Taiwan to resolve remaining issues are ongoing.

21. Taiwan uses various methods to lower assigned prices on innovative drugs, including "reference pricing" (assigning a lower price when a drug is approved for an additional use) and lowering assigned prices without a transparent process. In addition, Taiwan continues to restrict consumer choice and limit U.S. market access through disproportionate reimbursement of domestically manufactured generic drugs. To address these outstanding concerns of foreign pharmaceutical firms, Taiwan announced a reimbursement-pricing plan in March 2003. In this plan, the DOH and the Bureau of National Health Insurance agreed to find ways to include a "reward for innovation" component in its pricing mechanism for new drugs. However, industry representatives have criticized the new drug pricing mechanism as non-transparent and believe the reimbursement prices will not achieve the stated objective. Discussions between the United States and Taiwan on this issue are ongoing.

22. In July 2002, Taiwan introduced a "global budget" system in which hospitals receive lump sums from the National Health Insurance system to cover the cost of providing all services. The goal is to increase efficiency and encourage cost-cutting measures, but critics contend that the global budget system primarily encourages hospitals to seek discounts on pharmaceuticals in order to make up for losses in providing medical services. In addition, critics say the system discourages use of innovative drugs.

23. Other issues: Taiwan banned imports of U.S. beef in December 2003 with the detection of one positive case of Bovine Spongiform Encephalopathy (BSE) in the State of Washington. As of the publication of this report, the U.S. government is taking aggressive action and is working intensively to re-open the market as quickly as possible. Non-ruminant products for feed use, such as tallow, lard, poultry and porcine meal are banned with few exceptions that are only approved after a very slow case-by-case review or plant clearance process. A few products such as bovine serum and pet food are allowed entry.

GOVERNMENT PROCUREMENT

24. Taiwan committed to accede to the WTO Agreement on Government Procurement (GPA) as part of its WTO accession. While Taiwan has applied for accession to the GPA, its accession has not yet been completed due to differences regarding nomenclature issues. To prepare for accession, Taiwan implemented a new Government Procurement Law in mid-1999. This was an important first step toward establishing a transparent and predictable environment for Taiwan's multi-billion dollar market for public procurement projects. In August 2001, Taiwan and the United States signed a Memorandum of Understanding on Government Procurement. The MOU calls for Taiwan to implement certain procedural commitments immediately, while others will be implemented upon accession to the GPA. Taiwan agreed to establish new procedures providing for the independent review of

complaints that arise during the tendering process, to encourage its procuring entities to make use of mediation procedures, and to cooperate fully when such procedures are invoked. Despite these commitments, Taiwan officials have continued to incorporate provisions in its public procurement tenders that appear to be inconsistent with the GPA, although Taiwan is not yet a party to that agreement. Further, the lack of transparency in the government procurement process as well as the review process for complaints remains a serious issue. U.S. participation in Taiwan's government procurement market continues to decline as a result of these practices. The United States continues to remain concerned with the government procurement environment.

EXPORT SUBSIDIES

125. The Taiwan Government provides incentives to industrial firms in export processing zones and to firms in designated "emerging industries." Some of these programs may have the effect of subsidizing exports. Taiwan has notified the WTO of these programs and, as part of its WTO accession, committed to amend or abolish any subsidy programs inconsistent with WTO rules. Amendments of relevant laws, such as the Statute for Establishment and Management of Economic Processing Zones and the Statute for Establishment of Scientific Industrial Parks, to eliminate improper subsidies, went into effect upon Taiwan's WTO accession. The United States continues to monitor Taiwan's compliance with the commitments it undertook as part of its WTO accession, including those obligations associated with the Agreement on Subsidies and Countervailing Measures

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

126. IPR protection continues to be an important and serious issue in the US/Taiwan trade relationship. In 2004, Taiwan continued to take measures to improve enforcement of IPR, including stepping up raids against manufacturing and retail outlets, legalizing previously ad hoc task forces, and passing important revisions to the copyright law that increase penalties for counterfeiters. The U.S. International Intellectual Property Alliance estimates that Taiwan's IPR infringements caused trade losses to the United States of USD464 million in 2003. Despite several large raids against manufacturers and passage of amendments strengthening the pharmaceutical law, the U.S. Government continues to be concerned with the prevalence of counterfeits in the Taiwan pharmaceutical market and the lack of adequate data protection for innovative pharmaceuticals. U.S. industry has complained about delays in court cases and the difficulty Taiwan's judiciary has in handling technical cases. In April 2004, Taiwan was placed on the U.S. Special 301 Priority Watch List for the fourth year in a row, but was -given an out of cycle review at the end of 2004.

127. To improve Taiwan's ability to protect IPR, the government formulated a three-year (2003-2005) IPR Action plan. Measures included the establishment of the Integrated Enforcement Task Force (IETF) with a force of 220 police officers in January 2003; opening of three warehouses for counterfeiting seizures; the raising of the informant reward to up to NT\$10 million per counterfeiting seizure; strengthening of border control inspection for CD exports; and increasing day/night inspection on disc plants, night markets, and retail shops selling optical media. Taiwan's counterfeit goods seized by the U.S. Customs dropped from US\$26.5 million in FY2002 to US\$610,000 in FY2003, and to US\$60,000 in the first half of FY 2004. The Business Software Alliance (BSA) also announced that software piracy rate in Taiwan fell from 54 percent in 2002 to 43 percent in 12003.

128. Amendments to the Copyright Law passed by the Legislative Yuan in June 2003 lifted the requirement that rights-holders file a complaint before police can conduct enforcement actions. But provisions to allow ex officio seizure by Customs officials and prohibiting the circumvention of technical protection measures were eliminated and minimum sentences were repealed. In addition, provisions to address Internet piracy were removed from the final bill. After concerted lobbying by industry and the Taiwan Executive Yuan, the Legislative Yuan in August 2004 passed additional amendments to the Copyright Law including a) technological protection measures, b) heavier penalty for infringement, and c) giving Customs the authority to take ex officio action.

129. Internet piracy and illegal peer-to-peer downloading are becoming serious concerns for IP enforcement in Taiwan. Infringers are using the Internet to market illegal goods and illegally download music, movies, and software from indicted peer-to-peer Internet service providers (ISP). Efforts to use the legal system to shut down or restrict the

activities of P2P platforms has met with limited success thus far.

130. In response to U.S. and industry requests to improve protection of optical media products and curtail the illegal manufacture of such goods, Taiwan passed an optical media law on October 31, 2001. Manufacturers must apply for production licenses and report any changes to the authorities. Violators face a maximum three-year jail sentence and a fine of approximately \$86,000. The law was fully implemented effective May 2002. The Optical Media Law and IETF's night/day inspection has led to a dramatic decrease in large-scale factory production of counterfeit CD products produced by CD plants.

131. The U.S. Government also is concerned with the growing incidence of counterfeit pharmaceutical products in the Taiwan market and the lack of adequate data protection for these products. The Taiwan government in March 2004 revised the pharmaceutical affairs law to increase penalties for pharmaceutical counterfeiting. Nevertheless, counterfeit products continue to pose a threat to public health and Taiwan's Department of Health enforcement mechanism is not strong. Although a bill is pending in the Legislative Yuan, Taiwan has not yet fully provided data exclusivity for pharmaceutical products, a TRIPS commitment and a disincentive for pharmaceutical producers to introduce new products into the Taiwan market.

132. The lack of adequate protection for the packaging, configuration, and outward appearance of products, an area of IPR known as "trade dress," is another area of concern. Despite provisions in Taiwan's Fair Trade law designed to protect unregistered marks and other packaging features, misleading copying of U.S. products by local manufacturers remains a problem.

133. Taiwan's judiciary continues to experience difficulties in handling technical cases, and U.S. industry has complained about long delays in court cases. Often conflicting or unclear lines of bureaucratic authority stymie IPR enforcement efforts. Generally, U.S. IPR holders find that judges and court procedures themselves constitute barriers and that penalties for intellectual property violations are inadequate to deter violators. The United States continues to assist in remedying the weaknesses of the judicial system by holding seminars on criminal enforcement and encourages Taiwan to set up IP courts with experienced judges to handle the case.

SERVICES BARRIERS

Financial Services

134. Taiwan continues to liberalize its financial market beyond its WTO accession commitments. In January 2001, the Securities and Futures Exchange Commission (SFEC) lifted the restriction on employment of foreigners by domestic Taiwan securities firms. Also in January 2001, the SFEC removed the 50-percent foreign ownership limit on listed companies. In June 2003, the SFEC phased out a minimum two-year period for foreign holders of global depository receipts (GDRs) to exchange GDR for equity stocks after the GDR is issued. In July 2003, the SFEC lifted the ceiling limit of US\$3 billion on inward remittances by a qualified foreign institutional investor (QFII). It also abolished the requirement for a QFII to inwardly remit its investment fund within two years after it receives approval. In early October 2003, the Taiwan government voluntarily abolished the QFII system. Foreign portfolio investors are required to complete registration rather than seek advance approval, and as of December 2003, the registration could be done on the Internet. In late 2003, Taiwan allowed foreign portfolio investors to trade in the futures and money markets as a part of financial management prior to actual portfolio investment. However, futures, money market funds and bank deposits are subject to a limit of 30 percent of total inward remittances. All offshore foreign portfolio investors may trade in Taiwan's stock market regardless of their size, except for investment by hedge funds and investors from the PRC. However, foreign individual investors are still subject to an investment limit. Onshore foreign individuals and institutional investors are also subject to annual inward/outward limits.

135. Taiwan continues to work towards fulfilling its May 1997 commitment to liberalize insurance premium rates and policy clauses. It voluntarily opened the reinsurance market. In November 2001, Taiwan permitted life insurance companies to sell investment-linked products. Taiwan began to allow life insurance companies to set their own premium rates in January 2002 if the companies had their own actuaries to determine such rates. Taiwan adopted a three-stage premium rate liberalization program for non-life

insurance. Effective January 1, 2002, insurance firms were allowed to set premium rates for large face-value fire insurance policies and fire insurance policies sold to multinational corporations. The target date for total liberalization is January 2008, but the liberalization date for an individual insurance firm can be advanced if it has a good credit reputation and its capital adequacy ratio reaches 300 percent.

136. Taiwan adopted a transparent approval procedure for insurance policies in January 2001. Prior approval is not required for products whose policy clauses are identical or very similar to existing products of other companies. New products are subject to prior approval. Taiwan's Insurance Bureau will adopt a negative list system in January 2005. Under the new system, new products subject to prior approval will be deeply cut, down from 50 percent to 25-30 percent for life insurance and to 10-20 percent for non-life insurance. The processing time will be cut from 90 days to 75 days for life insurance and 60 days for non-life insurance. The Department of Insurance has opened its reinsurance market, and the Central Reinsurance Corporation Statute was revoked in June 2004. The Central Reinsurance Corporation, the only reinsurance firm in Taiwan, was privatized in July 2002. In August 2002, the DOI lowered the capital requirement for entering the reinsurance market, strongly in favor of foreign reinsurance firms over domestic competitors. In response to the liberalization, the Swiss Reinsurance Co. became the first foreign reinsurance firm to set up a branch in Taiwan in early 2004.

LEGAL SERVICES

137. Following Taiwan's accession to the WTO, foreign lawyers are permitted to practice law in Taiwan either by setting up individual practices (single lawyer) or entering into partnerships with local counterparts. In order to practice domestic law, foreign lawyers must pass the local bar examination and use the Chinese language when appearing before the court or submitting written briefs. If the foreigner does not meet these qualifications, local lawyers working for, or in cooperation with, the foreign lawyer may represent the foreign lawyer's interests on domestic law issues. When practicing international or foreign law, foreign lawyers do not need to pass the language or bar examinations and are not required to hire or partner with local lawyers.

TELECOMMUNICATIONS SERVICES

138. Following the issuance of licenses to three fixed-line telecommunications service providers in 2000, the Directorate General of Telecommunications' (DGT) again opened applications for integrated network licenses in September 2004. The capital requirement for integrated network service was reduced to NT\$16 billion from NT\$40 billion and system capacity requirements were lowered from one million to 400,000 subscribers' lines. However, the September's open season failed to generate any bids. DGT also announced in September 2004 that it would launch a biannual licensing schedule in March and September beginning this fall. According to DGT's plan, local, long-distance and international call businesses will be added to the licensing schedule under less restrictive conditions in March 2005. A new formula based on local population will be used to calculate the capital requirements for each of the new service license. As low as NT\$1.2 billion may be required for a local call license in Taipei City and NT\$2 billion for long-distance and international service licenses.

139. Existing fixed-line operators still face serious difficulties in negotiating reasonable interconnection arrangements at technically feasible points in the network of the dominant carrier, Chunghwa Telecom (CHT). Despite its announcement in May 2004 to share the local loop with the three private providers, CHT set two limitations. A change to allow non-CHT service providers access to CHT's local loop can only be initiated by end users. Only voice service in three metropolitan areas is open to non-CHT operators. The Premier announced in November 2003 that the government would invest a total of NT\$35 billion in the next five years to help local governments resolve "last mile" problems for telecommunications end-users. This "Mobile Taiwan" plan will also include the construction of a second broadband network around Taiwan to be jointly used by telecommunications service companies. These new investment projects are expected to help break the monopoly of the telecommunications network by state-owned CHT. Taiwan's telecommunications regulatory body, DGT and the state-owned former monopoly CHT are under the purview of the MOTC, creating a potential conflict of interest. DGT lacks the full authority, independence, and resources to effectively resolve telecommunications-related disputes. Two draft

laws, "Communications and Broadcasting Basic Law" and the statute for the organization of the proposed Cabinet-level "National Communications and Broadcasting Commission (NCC)", have been introduced by the Cabinet. The Basic Law was passed in December 2003 and the reorganizing statute is currently pending in the legislative process. The NCC will be an independent regulatory body that will unify regulatory authority now split between DGT for wired or wireless communications and the Government Information Office for radio and television broadcasting.

40. Taiwan's telecommunications market is transforming. In June 2003 the DGT announced regulations governing equal access service, allowing Type I subscribers to select the long distance and international network service of other providers. In August 2003 the DGT amended regulations to open Taiwan's mobile virtual network operator (MVNO) market and began licensing in September 2003. The MVNO opening offers an alternative third-generation (3G) wireless service to local consumers and allows service providers to operate without a 3G license by partnering with existing 3G operators. In November 2003 the DGT announced the regulations governing number portability service, enabling subscribers to retain their existing telephone numbers when switching from their original Type I enterprise to another Type I enterprise engaging in the same business. Actual implementation of the number portability service is likely to be postponed from January to December 2005 due to delay by an industrial alliance in completing a central database. In November 2004 DGT began to solicit comments for a proposal to facilitate development in the voice over Internet protocol (VoIP) services. DGT plans to adopt the E. 164 numbering plan and help safeguard the interconnectivity between VoIP providers and fixed-line operators as given by the Telecom Act, but has not finalized the interconnectivity between VoIP providers. Legislative amendment to the Telecom Act would be required for compulsory interconnectivity between VoIP providers. Supported by the central government's "Mobile Taiwan" plan toward a wireless island, the three metropolitan areas have seen progress in the wireless network infrastructure in 2004. Taichung City currently leads Taipei City and Kaohsiung City in reaching the goal of 80 percent coverage. International submarine cable firms remain limited to only one gateway for their links from the cable-landing site to network providers while they are permitted to build their own backhaul facilities.

41. Taiwan's telecommunications market saw a merger of KG Telecom and Far EastOne in October 2003. The merger has created a mobile service market equally divided between Far EastOne, CHT and Taiwan Cellular. The United States continues to monitor Taiwan's progress in the telecommunications sector.

INVESTMENT BARRIERS

42. Taiwan continues to relax investment restrictions in a host of areas, but foreign investment remains prohibited in a handful of industries such as agriculture, wireless broadcasting, oil exploration of Taiwan's coastal area, public utilities, and postal services. Foreign investors in the telecommunications sector are subject to a 60 percent ownership limit, with the limit on direct foreign investment raised from 20 percent to 49 percent in 2002. In February 2003, Taiwan lifted its ban on foreign investment in liquor production, though prior approval is required. Similarly, in January 2004, foreign investment restrictions on cigarette production were removed, though prior approval is required. Foreign ownership in airlines is limited to 33 percent. The 50 percent foreign ownership limit on air cargo forwarders and air cargo terminals was eliminated when Taiwan became a WTO member. Foreign ownership on power plants has been removed, while foreign investment in electricity transmission and distribution remains subject to a 50 percent ownership limit and approval by the Executive Yuan. Imports of gasoline and liquid natural gas were opened to the private sector in January 2002. In October 2003, Taiwan set a foreign ownership limit of 49 percent on high-speed railway transportation.

ANTICOMPETITIVE PRACTICES

43. In the cable TV market, U.S. program providers contend that the island's two dominant multi-system operators (MSOs) frequently collude to inhibit fair competition. Control by the two MSOs of upstream program distribution deterred U.S. program providers from negotiating reasonable program fees. In December 2003, Taiwan's legislature passed a new broadcasting law combining the Radio and Television Broadcasting Law, the Cable Television Broadcasting Law, and the Satellite Television Broadcasting Law. Following the legislative passage of the law, Taiwan officials are working to eliminate political interference in the television

broadcasting industry by monitoring public releases of state-owned and party-owned stocks.

ELECTRONIC COMMERCE

144. Taiwan's approach to e-commerce and related issues is still evolving. A law protecting personal on-line data was approved in 2001. The Electronic Signature Law, passed by the Legislative Yuan in late October 2001, adopts the principles of the United Nations Commission on International Trade Law's Model Law on Electronic Commerce and recognizes the legal validity of electronic contracts, records, and signatures. Still under discussion is a proposal to assess duties for software sold and downloaded over the Internet. If implemented, such a policy would appear to run counter to the Doha Declaration that WTO Members would maintain their current practice of not imposing customs duties on electronic transmissions. Taiwan has refused to join the US at APEC in advocating for a permanent moratorium on taxation of Internet transactions.

PAAL